

ASSESSMENT REPORT

Salamander Shores Hotel, Soldiers Point Concept Plan and Project Approval MP 06_0183 MOD 1

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan and Project Approval for a mixed use residential and tourist facility at Soldiers Point in the Port Stephens local government area.

The request has been lodged by Salamander Shores Hotel Pty Ltd pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the lapse date of the approval.

2. SUBJECT SITE

The site is located at 147 Soldiers Point Road, in Soldiers Point which is located on the Tomaree Peninsula adjacent to the waterbody of Port Stephens. The site location is shown in **Figure 1**.



Figure 1: Project location

The site is 1.2ha in area. The Salamander Shores Hotel currently occupies the site. It comprises 91 hotel rooms, a pub and restaurant on the ground floor and pool and conference facilities. It ranges in height from 1 to 7 storeys (maximum height of RL 29.7m AHD). The Hotel was built in 1969 and is approved for demolition as part of the Project Approval. **Figure 2** is an aerial photo of the subject site.



Figure 2 - View of the site looking east (Source EA September 2010)

3. APPROVAL HISTORY

On 4 September 2011, the Ministers Delegate approved the Concept plans and Project application (both identified as MP06_0183). The approvals provided for:

- **Concept Plan:** A mixed used residential and tourist development including a hotel, serviced apartments and permanent residential accommodation with associated car parking, landscaping, conferencing and other facilities.
- **Project Approval:** Demolition of the existing buildings and structures and general site clearance.

Condition A5 of the Project approval provides that the approval shall lapse 5 years from the date of the determination, unless the works are physically commenced. As the works have not commenced, the approval would lapse on 4 September 2016.

Condition A4 of the Concept Plan approval provides that the approval shall lapse 5 years from the date of the determination, unless a Project application for approval to carry out all or part of the project the subject of the Concept Plan Approval has been submitted.

The Department is of the view that as a Project Application (to carry out preliminary works necessary to enact the Concept Plan approval), was submitted and determined concurrently with the Concept Plan approval, the requirements under Condition A4 to activate and preserve the Concept Plan approval have been met. However, the Concept Plan approval does not specifically reference the preliminary works. A modification to the Concept Approval is therefore required to avoid any possibility of ambiguity about the status of the approval in the future.

4. PROPOSED MODIFICATION

On 15 August 2016, the Proponent lodged a section 75W modification application (MP 06_0183 MOD 1) seeking approval to extend the lapse date of both approvals by two years from 4 September 2016 to 4 September 2018.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the EP&A Act. The Department is satisfied the proposed change is within the scope of section 75W of the EP&A Act, and it does not constitute a new application.

5.2 Section 75Y

Former section 75Y of the EP&A Act provides that a condition specifying a lapsing date on an approval may be modified to extend the lapsing period, and the Minister is to review the approval before extending the lapsing period. The Department has therefore reviewed the original approval, as discussed in **Section 7** of this report.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Acting Director, Modification Assessments may determine the application under delegation as:

- the relevant local Council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification application publicly available on its website, and consulted with the Port Stephens (Council) about the proposed modification. Given the minor nature of the proposed modification, it was not notified by any other means.

Council did not raise any objections to the proposal, however noted that since the original approval the Port Stephens Local Environmental Plan 2000 (LEP 2000) has been replaced by the Port Stephens Local Environmental Plan 2013 (LEP 2013). As a result of the adoption of the LEP 2013, the land use zoning of the site has changed from 3(a) Business Zone to R3 – Medium Density Residential. Council noted that all land uses applied for under the original proposal remain permissible with consent, including a 'function centre' where it is ancillary to 'hotel or motel accommodation' development.

There were no **public** submissions received on the proposal.

7. ASSESSMENT

Section 75Y of the EP&A Act outlines that the Minister may modify the lapsing period, subject to a review of the approval before extending the lapsing period.

The Department has reviewed the original approvals and is satisfied there are no circumstances which have changed which would result in a different determination of the application today. In particular:

Changes to the strategic planning context of the site do not materially alter the assessment:

The original application was assessed against the *Port Stephens Local Environmental Plan (LEP) 2000* which zoned the site 3(a) Business General 'A' zone. Urban housing and tourist facilities including hotels and serviced apartments were permissible with consent on the site.

The LEP did not contain height or floor space ratio restrictions for this zone, but Council's Development Control Plan (DCP) 2007 did include a height restriction of 8 metres.

The Port Stephens LEP 2000 has been superseded by the Port Stephens LEP 2013 and the site is now zoned R3 Medium Density Residential. Although there has been a change in the zoning, residential flat buildings, serviced apartments and hotels all remain permissible with consent in the new zone. The proposed function centre is also permissible, as it would be ancillary development to the hotel. The Department is satisfied that the proposed development remains consistent with the objectives of the new residential zone, in that it:

- provides for the housing needs of the community;
- provides a variety of housing types; and
- provides another land use with facilities to meet the needs of residents.

A building height control of 8 metres has now also been incorporated into the LEP. No FSR control applies. The Department has reviewed the original assessment, which gave detailed consideration to the proposed heights and aesthetic appearance of the proposed development, and concluded that that despite the non-compliance with the 8 metre height control, subject to some modifications, the proposed heights were acceptable and would not result in adverse visual impacts on the waterway or the streetscape. The Department considers the previous assessment against the 8 metre height control remains valid.

The Department's previous assessment and conclusions on the acceptability of land uses, building height and visual impacts within its original assessment remain valid and are not materially affected by the changes to the local planning controls.

The changes to the local planning controls do not affect the assessment of the Project approval to demolish the existing buildings and other preparatory works.

The physical context of the site has not significantly changed:

The site's physical context was acknowledged in the original assessment to include the surrounding foreshore reserves, open space, Port Stephens Sailing and Aquatic Club, Soldiers Point Holiday Park, Soldiers Point Bowling Club, and low density residential areas. The Department has reviewed the physical context of the site and notes there have been no material changes to the surrounding environment that would impact on the assessment of the proposals.

No changes are proposed to the development and therefore there are no changes to the environmental impacts of the development:

The only aspect of the proposals sought to be modified as part of this application are the lapsing dates. The current modification request does not seek to modify any other aspect of the development which would change the environmental impacts associated with the development.

The Department is therefore satisfied the original assessment remains valid, and an extension to the lapsing periods would not result in any change to the Department's original assessment, or any additional environmental impacts, beyond those already assessed and approved.

The Department considers an extension to the lapse dates by two years is acceptable as the site remains suitable for the approved development and is consistent with the strategic planning context for the precinct.

The Department therefore recommends Condition A4 of the Concept Plan approval and Condition A5 of the Project approval be amended to provide a revised lapse date of 4 September 2018, as outlined in **Appendix A**.

8. CONCLUSION

The Department has assessed the application on its merits and reviewed the original approvals, consistent with section 75Y, and is satisfied it is appropriate to extend the approval lapse dates by two years from 4 September 2016 to 4 September 2018.

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's original assessment remains valid and the proposed modification is appropriate on the basis that:

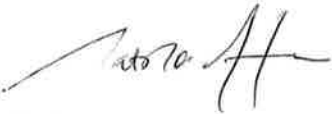
- the extension of time would not result in any impacts beyond those already assessed and approved; and
- the extension of time does not alter the original Concept Plan approval or Project approval.

Consequently, it is recommended the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is **RECOMMENDED** the Acting Director, Modification Assessments as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the applications under section 75W, subject to conditions; and
- **signs** the notices of modification (**Appendix A**).



Natasha Harras
Team Leader
Modification Assessments



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Acting Director
Modification Assessments

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notices of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7902

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7902

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7902